

171
Act
from 14 May 1998
on the Access to Information on Environment
National Council of the Slovak Republic has adopted following act:

Article 1
Object of the Regulation

This Act sets the way and conditions for access to timely and whole information on the state of environment and on the reasons and consequences of this state¹ (hereafter "information on environment") which is available to relevant state authorities, municipalities and other legal or natural persons set by this act.

Article 2
Information on Environment

(1) Information on environment is information in written, visual or aural form of information on the different medium reproducible by technical means

- a) on the status of air, water, soil, forest, mineral environment and the status of fauna and flora and their sites including the impact of this status to the human health, biodiversity² and ecological stability,³
- b) on activities and measures endangering or damaging environment or being able to endanger or damage it, especially by emissions (including waste water discharging), wastes, noise, energy including ionising radiation, as well as other substances and agents,
- c) on characteristics, quantities and impact of emissions and imissions, wastes, noise, chemical substances or energy including ionising radiation as well as other substances and agents able to pollute or damage the environment,
- d) on activities and measures taken for the purpose of environmental protection including administrative measures, plans and programmes aimed at environmental protection, human health protection prevention, protection of biodiversity and ecological stability,
- e) if other act so determines.

(2) Ministry of Environment (hereafter "Ministry") decides in the case of doubt whether it is question of information on environment. If the doubt on information on environment concerns the matter regulated by the legislation which is under jurisdiction of other central body of state administration of the Slovak Republic⁴, ministry decides after the consultation with this central body of state administration of the Slovak Republic.

Article 3
Access to information on Environment

Access to information on environment means the possibility of access to the existing information on environment in accordance with this Act, especially their publication, provided on the base of request, possibility to see the documentation ant to make its copies and transcriptions.

Article 4
Subjects Which Are Obligated to Provide Information on Environment

(1) Bodies of state administration and municipalities (hereafter "relevant bodies") are obliged to make information on environment accessible.

¹ Article 45 of the Constitution of the Slovak Republic

² Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 34/1996 on Concluding of the Convention on Biological Diversity

³ Art. 4 of the Act No. 17/1992 on Environment

⁴ Act of Slovak National Council No. 347/1990 on Organisation of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended.

- (2) Subjects laid down below are also obliged to make information on environment accessible
- a) legal persons established by law, legal persons established⁵ by or under the body of state administration or municipality both which fulfil tasks in the area of environmental protection
 - b) natural persons which hold the business licence and legal persons who fulfil tasks in the area of environmental protection on the base of agreement with the state administration body and within the scope of this agreement,
(hereafter "organisation").

Article 5 The Right to Access to Information on Environment

The right to access to information on environment is given to everybody without showing legal interest or reason which is information requested for unless this Act sets otherwise.

Article 6 Reasons for Rejecting of Request or Limiting Information on Environment

- (1) Information on environment or its part is not made accessible if
- a) it is the object of state or professional confidentiality,⁶
 - b) the accessibility is excluded on the base of special law,⁷
 - c) it is the object of unfinished judicial proceeding or unfinished criminal proceeding.
- (2) It is possible to refuse the access to information on environment or to its part if
- a) its publication could seriously endanger public security,
 - b) the access to it could endanger or damage environment,
 - c) it concerns the internal announcements, regulatory acts or unfinished documentation of the relevant body or organisation,
 - d) the request means the abuse of the right to access to information on environment, especially if the request is given with the aim of obtaining the database of the body or organisation or it causes problems without any reasons or it is apparently aimed at obtaining other data than information on environment,
 - e) the request, also after its completing, has not obvious content or the scope of requested information or if the request was not completed after the appeal of relevant body or organisation (Article 9, paragraph 2).
- (3) If the reason for refuse the access to information on environment in accordance to paragraphs 1 and 2 is relevant only to the part of information and it is possible to separate this remaining part, the remaining part will be made accessible.

Article 7 Commercial Confidentiality Protection

- (1) In the case of the request to access to information on environment which could lead to the violation or endangering the right to the commercial confidentiality,⁸ relevant body or organisation obliged to make information accessible can request the entrepreneur who exclusively has the right to commercial confidentiality for the statement whether information is a part of commercial confidentiality, for the approval to make it accessible or for the reasons why he/she has no interest in making it accessible.

⁵ Art. 16 para. 4 and Art. 21 of the Act of National Council of the Slovak Republic No. 303/1995 on Budgetary Rules in wording of the Act of National Council of the Slovak Republic No. 386/1996.

⁶ Act of National Council of the Slovak Republic No. 100/1996 on the Protection of Commercial Confidentiality, Professional Confidentiality, Ciphared Protection of Information and on amendment of Penal Act as amended.

⁷ E.g. Act No. 383/1997 on Copyright and Act amending Custom Act as amended and Act No. 52/1998 on Protection of Personal Data in Information Systems.

⁸ Art. 17 to 20 of Commercial Code in wording of the Act of the National Council of the Slovak Republic No. 249/1994 Art. 122 of the Penal Act in wording of the Act of the National Council of the Slovak Republic No. 100/1996 and the Act no. 13/1998.

(2) The entrepreneur who exclusively has the right to the commercial confidentiality is obliged to answer such request in two weeks since its delivery. If he/she does not approve granting the access, he/she must give the relevant reasons. Should he/she not respond to the request which has been evidently delivered, it is supposed that he/she approves granting the access.

(3) Impairing of entrepreneur's reputation by publication of his trade name in connection with the activity evidently polluting or damaging environment does not mean violating or endangering commercial confidentiality.

(4) If relevant body in spite of negative entrepreneur's opinion and according to paragraph 2 after taking into account public interest in making information on environment accessible considers making it accessible as being justified, the relevant body makes decision in accordance with general administrative regulations.⁹ In accordance with paragraph 2 entrepreneur is the only party to the proceeding.

(5) Public interest in making information on environment accessible is obvious in the case of information relating to serious impact to

a) human health,

b) environment including biological diversity and ecological stability,

c) world cultural and natural heritage.¹⁰

(6) If organisation in spite of negative entrepreneur's opinion and according to paragraph 2 considers making information on environment accessible as being justified, it give rise to the beginning of the proceeding to relevant body in accordance to paragraph 4 within one week since the making this decision. It shall also send the request for making information on environment accessible, the entrepreneur's opinion according to paragraph 2 and its own opinion. In the same time it shall also inform person requesting information on environment.

(7) Relevant body or organisation takes into account the proportionate protection of commercial confidentiality when making it accessible according to the decision taken in accordance with the paragraphs 4 to 6.

Article 8

Protection of Third Persons' Interests

(1) Information on environment given to the relevant body or organisation by natural person or legal person on a voluntary basis may be made accessible only after its consent, if this persons make such reservation.

(2) Information which the third person is obliged to provide according to special regulations¹¹ is not information referred to in paragraph 1.

(3) Article 7 applies to the procedure of making information accessible according to paragraph 1.

Article 9

Request for Making Information on Environment Accessible

⁹ Act No. 71/1967 on Administrative Proceeding (Administrative Order)

¹⁰ Notification of the Federal Ministry of Foreign Affairs No. 159/1991 on Concluding the Convention on World Cultural and Natural Heritage Protection.

¹¹ For instance Articles 8 to 13 of the Act No. 138/1973 on Waters (Water Act), Articles 35, 58 and 60 of the Act no. 50/1976 on Territorial Planning and Building Order (Building Act) in wording of the Act No. 262/1992, Act of the National Council of the Slovak Republic No. 199/1995 and the Act No. 229/1997 (complete wording No. 109/1998), Articles 4 to 8 and Article 10 of the Act No. 61/1977 on Forests in wording of the Act of National Council of the Slovak Republic No. 183/1993, Articles 5, 6 and 8 of the Act No. 238/1991 on Wastes, Articles 6 and 7 of the Act No. 309/1991 on the Air Protection Against Polluting Substances (Air Act) in wording of the Act No. 218/1992, the Act of National Council of the Slovak Republic No. 148/1994 and the Act of National Council of the Slovak Republic No. 256/1995, Articles 12 and 27 of the Act of National Council of the Slovak Republic No. 272/1994 on Human Health Protection in wording of the Act of National Council of the Slovak Republic No. 290/1996, Articles 7, 9, 13 to 20 and Articles 25 to 30 of the Act of National Council of the Slovak Republic No. 287/1994 on the Nature and Landscape Protection .

(1) Request for making information on environment accessible can be made in written or can be made by other technically comparable way (especially by telegraph or telex); request made orally or by telephone applies usually to the daily measured values.

(2) The request must be sufficiently determined, it must be obvious who is the requesting subject as well as the scope and content of requested information on environment. If the request is incomplete, relevant body or organisation appeal to the requesting person to complete it within 15 days since the receiving the appeal. It shall instruct him/her on legal consequences should the request remain incomplete [article 6 paragraph 2 letter e)].

Article 10

The Forms of Making Information on Environment Accessible

(1) Information on environment shall be made accessible in a form suitable for concrete case, i.e. by oral or written reply, by handing in the copy or the transcription, by making it possible to see the documentation or through the reference to the publication where the requested information is published.

(2) Relevant body or organisation when determine the form of making information accessible with regard especially to the form of request, scope and content of requested information, its own possibilities and other circumstances of each case.

(3) If relevant body or organisation has not the requested information on environment available, it shall without delay inform the requesting subject, and if possible, provide the requesting subject with knowledge where should it be found.

Article 11

Terms and Conditions of Making Information on Environment Accessible

(1) Information on environment shall be made accessible without delay, at the latest within two months since the request was received or since the request was completed in accordance with the Article 9 paragraph 2. If it is not possible to answer within set terms, relevant body or organisation shall inform the requesting subject without delay and state the reasons and supplementary term within which information will be provided.

(2) When making information on environment accessible relevant body or organisation provide the protection to those information which cannot be made accessible or their accessibility is limited (Articles 6 to 8).

(3) When making information on environment accessible relevant body or organisation give also its source if known or state whether information comply appropriate standards.¹²

Article 12

Procedure When Information on Environment Is Not Made Accessible

(1) If relevant body or organisation does not make requested information on environment, whether whole or its part, accessible because of reasons referred to in Articles 6 to 8, they shall inform the requesting person about it in term according to Article 11 paragraph 1, further they shall state the reason and they shall instruct him/her on his/her rights according to paragraphs 2, 3 and 5.

(2) If requesting person does not agree with the way how his/her request is handled by relevant body, he/she can give proposal to the relevant body within 30 days since the notification, to begin the procedure in order to make information on environment accessible in accordance with paragraph 1.

¹² Article 6 paragraph 2, letter c), Article 7 paragraph 2 and Article 10 of the Act of National Council of the Slovak Republic No. 261/1995 on State Information System.

(3) If requesting person does not agree with the way how his/her request is handled by organisation, he/she can give application within 30 days since the notification to start the decision making procedure to make information on environment accessible to the relevant body which

- a) has established or founded or manage this organisation [Article 4 paragraph 2 letter a)] or
- b) has concluded agreement with this organisation [Article 4 paragraph 2 letter b)].

(4) Provisions of the paragraphs 2 and 3 have the same efficiency also in the case of relevant body's or organisation's inactivity. The term of 30 days begins at a moment when the term for responding to the request has finished (Article 11 paragraph 1).

(5) If this right to start decision making procedure is not applied according to paragraphs 2 to 4, this right becomes void.

Article 13 Payment of Expenses

(1) Information on environment is made accessible after payment of expenses needed for making it accessible is done.

(2) Payment of expenses is not applicable in cases defined by special regulation¹³ or in case when the requesting person is informed on publicly accessible publications or information.

(3) Relevant body or organisation which make information on environment accessible may exempt requester from the payment if the amount is not higher then 100 SK in single case.

(4) Relevant body or organisation can in reasonable case require payment prior to making information on environment accessible.

(5) Paragraph 1 does not apply to making information on environment accessible according to Articles 14 and 16.

(6) Paragraphs 1 to 3 have no influence to the prices of publications and other transferable media containing information on environment.

(7) Ministry shall issue the general binding regulation laying down details of method of determination of payment according to paragraph 1, its paying including reasonable cases according to paragraph 4.

Article 14 Publishing of Information on Pollution of Environment

(1) Natural person who is holder of business licence or legal person which are according to special regulations and according to decisions taken on the basis of these regulations, obliged to measure the quantities of determined kinds of released substances (emissions) to the air or to the water and/or to monitor other impact of their installations on environment; further, they are obliged to publish the results of measurements and monitoring in generally understandable form on generally easy accessible place regularly, within 10 days after the end of each month, in which this obligation was in place and totally within 30 days after the end of year.

(2) It must be obvious from published results of measurements and monitoring what kind of environmental pollution was caused by the installation and what is the relation between measured values and limit values set in or allowed by law.

¹³ For example Article 17 paragraph 1 of the Act of National Council of the Slovak Republic No. 303/1995, Article 18 of the Act of National Council of the Slovak Republic No. 322/1992 on State Statistics in wording of the Act of National Council of the Slovak Republic No. 278/1996 and Article 32 of the Act No. 71/1967.

(3) Natural person who is holder of business licence or legal person that have caused serious endangering or damage to environment, especially as a result of industrial accident, fire or traffic accident, are obliged to inform public immediately. The information shall contain the short description of accident, reasons of its origin, proportions and scope of damage to environment or to its parts and taken measures. Form and scope of informing of public shall correspond to the environmental damage and to the possibilities of obliged person.

(4) Fulfilling of the obligation according to paragraph 3 has no influence to the obligation to inform nor to the other obligations according to special regulations¹⁴.

Article 15 Penalties

(1) Slovak Environmental Inspection (hereafter "inspection") may impose to natural persons who are holders of business licence or to legal persons penalty up to 500 000 SK if

- a) they don't publish the results of measurements and monitoring in form and time limits according to Article 14 paragraph 1,
- b) published results of measurements and monitoring don't comprise data according to Article 14 paragraph 2 or if they comprise untrue data,
- c) they don't fulfil the obligation to inform the public in term, scope or manner set in Article 14 paragraph 3.

(2) When determining the amount of penalty, especially the seriousness and duration of unlawful activity, scope and proportions of possible or done damage must be taken into account.

(3) Inspection can also in the decision on imposing the penalty decide on the measures which obliged person must take in determined time limit to remedy the consequences of unlawful activity for which the penalty was given. If obliged person doesn't take these measures in determined time limit he/she may be given next penalty which may be twice as much as original fine. The penalty may be given repeatedly.

(4) Penalty according to paragraph 1 may be imposed within one year since the day when inspection has obtained the knowledge on breaking the obligation, however the latest term is three years since the day of breaking the obligation.

(5) Penalty according to paragraph 3 may be imposed within one year since the day when obligation given according to paragraph 3 should have been fulfilled. Imposing the penalty doesn't mean the obligation to take remedy measures becomes void.

(6) The penalty is due to be paid within 30 days since the day when the decision comes into effect on the basis of which the penalty was imposed, unless the decision doesn't set longer time limit.

(7) The penalties according to paragraphs 1 to 3 are the part of the income of state budget.

Article 16 Report on the State of Environment

(1) Ministry shall every year publish the report on the state of environment of Slovak Republic. Relevant central bodies of state administration of Slovak Republic⁴ shall provide it with necessary documentation.

(2) The report referred to in paragraph 1 shall be issued by Ministry by December 15 of the next year. Relevant central bodies shall provide it with the documentation by August 31 of the next year.

¹⁴ For example Article 5 of the Act of Slovak National Council No. 51/1988 on Mining Activity, Explosives and State Mining Administration in wording of the Act of Slovak National Council No. 499/1991, Article 7 paragraph 1 letter b) of the Act No. 309/1991 in wording of the Act of the National Council of the Slovak Republic No. 148/1994, Article 8 of the Act of the National Council of the Slovak Republic No. 330/1996 on the Safety and Health Protection During Work, Article 51 of the Act of the National Council of the Slovak Republic No. 315/1996 on The Land Communications Traffic.

(3) The report referred to in paragraph 1 shall be available at Ministry, at inspection as well as at regional and district offices.

Article 17
Proceeding

General regulations on administrative proceeding,⁹ taking into account the deviations referred to in this Act, are relevant only to the proceeding according to Article 2 paragraph 2, Article 7 paragraph 8, Article 12 paragraph 2 to 4 and Article 15.

Article 18
Derogation

Articles 14 and 18 paragraph 2 of the Act No. 17/1992 on Environment shall be repealed.

Article 19
Efficiency

This Act comes into effect on September 1, 1998.

Ivan Gašparovič
Vladimír Mečiar