

LAW NO. ...

ON FREE CITIZEN ACCESS TO PUBLIC INFORMATION,  
AND GOVERNMENTAL TRANSPARENCY

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THE CONGRESS OF THE PARAGUAYAN NATION SANCTIONS  
WITH THE FORCE OF

LAW:

Chapter I. General Dispositions

**Article 1st. - Object.** This law regulates Article 28 of the Constitution of the Republic, establishing the ways, terms and sanctions so that the right of access to public information be effective to all persons<sup>1</sup>.

**Article 2nd. - Compatibility with other constitutional rights.** No disposition under this law shall be extended or used to deny, impair or limit the freedom of expression, freedom of the press<sup>2</sup> or the freedom of the exercise of journalism<sup>3</sup>.

**Article 3rd. - Compatibility with international treaties. 1.** No disposition under this law shall be extended or used to deny, impair or limit the right of access to public information in the form as regulated by the Universal Declaration of Human Rights, the International Pact on Civil and Political Rights, the American Convention on Human Rights and other international instruments signed and ratified by the Republic of Paraguay.

**2.** The disposition of these international instruments and the interpretation that the bodies thereby established<sup>4</sup> make of these dispositions shall be considered as the

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<sup>1</sup> Article 28. - OF THE RIGHT TO ENQUIRE. The right of the people to receive true, responsible and impartial information is recognized. The public sources of information are free for all. The law shall regulate the modes, terms and sanctions corresponding to the same, in order that this right be effective. Any person affected by the diffusion of false, distorted or ambiguous information has the right to demand its rectification or clarification by the same means and under the same conditions in which it has been divulged, without prejudice to the other compensatory rights.

<sup>2</sup> Article 26. - OF THE FREEDOM OF EXPRESSION AND OF THE PRESS. Free expression and freedom of the press are guaranteed, as well as the diffusion of thought and opinion, without any censorship whatsoever, without any limitations other than those established in this Constitution; consequently, no law shall be dictated that impairs or restrict them. There shall be no press crimes, but common crimes by means of the press. Any person has the right to generate, process or disseminate information, as well as to the use of any licit and apt instrument to such purposes.

<sup>3</sup> Article 29.- OF FREEDOM TO EXERCISE JOURNALISM. The exercise of journalism, in any of its forms, is free, and shall not be subject to previous authorization. Massive social communications media journalists, in performing their functions, shall not be obligated to act against their conscience, or to reveal their sources of information. The columnist journalist has the right to publish his or her signed opinions, without censorship, at the media where he or she works. The direction may safeguard its responsibility by expressing its dissent. The right of authorship is recognized to the journalist, on the product of his or her intellectual, artistic or photographic work, under whichever technique, according to the law.

<sup>4</sup> Inter American Human Rights Court, Sentence of September 19, 2006, "Claude Reyes and others vs. Chile", Series C 151. <http://www.corteidh.or.cr/casos.cfm>

minimal nucleus of rights and guaranties with regards to the right of access to public information.

**Article 4th. - PUBLIC INFORMATION, PRINCIPLE OF PUBLICITY OR TRANSPARENCY. EVIDENCE OF HARM. 1.** All the information generated, managed or obtained by public entities in any format, is considered as property of public domain of the State<sup>5</sup> and is presumed public<sup>6</sup>. All persons have the right to request and receive information from any public entity under the terms and conditions as established in this Law.

2. It corresponds to the State to prove that the information is covered by a cause of exception and that the harm that may occur with the publication of the information is larger than the interest in its knowledge<sup>7</sup>.

**Article 5th. - MAXIMUM DISCLOSURE. IN DUBIO PRO ACCESS. DIVISIBILITY. 1.** Public entities must provide the information in their possession in the amplest possible way, excluding only that which is covered by a cause of exception.

2. In case of reasonable doubt on whether the information is protected under the principle of publicity or is covered by a cause of exception, the option for publicity of the information must be taken.

3. If a document contains information that may be known, and information covered by a cause for exception, access to the first must be granted.

**Article 6th. - NO NEED TO MOTIVATE THE REQUEST.** The exercise of the right of access to public information may not be conditioned to the accreditation of a subjective right, a legitimate interest, or the exposition of the reasons motivating the request.

**Article 7th. - GRATUITOUSNESS. 1.** The exercise of the right of access to public information is gratuitous, except in what is related to the costs of reproduction, which may only include the market cost of the materials used in the reproduction of the information, and the cost of delivery, in its case. The gratuitousness established in this Article is not applicable to the fees as established under the law for the issuance of registration certificates and certified documents.

2. The public entities shall strive to reduce the costs of information delivery to the minimum.

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<sup>5</sup> Information as property of the public domain of the State: Article 3 of Law on Transparency and Access to Public Information of the Federal District. Art. 1898 in fine of the Paraguayan Civil Code: “The properties of the public domain of the State are inalienable, non -prescribing and not attachable”. Art. 1899, Paraguayan Civil Code: “private persons have the use and enjoyment of the public property of the State, but shall be subject to the dispositions of this Code, and the laws or administrative regulations”. Art. 2340, Argentinean Civil Code, antecedent of Art. 1898 of the Paraguayan Civil Code: “Among the public property are comprised: (...) 8) the official documents of the branches of the State”.

<sup>6</sup> Principle of transparency: Art. 11, paragraph “c”, of Chilean Law 20.285 “On Access to Public Information”.

<sup>7</sup> Evidence of harm: Art. 4, XVI of the Law on Transparency and Access to Public Information, Federal District.

## Chapter II. Active Governmental Transparency

**Article 8º. - PUBLIC SOURCES OF INFORMATION. 1.** All public entities are public sources of information. To the effects of this law, it is deemed that public entities are:

- a) The Legislative Branch, its chambers, committees, and all their administrative bodies;
- b) The Executive Branch, its ministries, secretaries, and all the other administrative bodies, as well as the Office of the Republic's General Procurator and the National Police;
- c) The Judicial Branch, the Council of the Magistracy, The Court for the Judgment of Magistrates, the Public Ministry, and the Electoral Justice;
- d) The Nation's Armed Forces;
- e) The Office of the Ombudsman, Office of the Republic's General Comptroller, and the Central Bank of Paraguay;
- f) The State's financial institutions, the public companies, business corporations with majority participation of the State, mixed economy corporations, regulatory or controlling bodies and all the other decentralized entities with public law legal person status;
- g) The national universities;
- h) The departmental and municipal governments; and,
- i) The mixed committees and bi-national entities of which the Republic of Paraguay participates.

**2.** The Paraguayan representatives, directors and advisors at the public entities mentioned in paragraph i) of item 1 in this Article must facilitate the right of the people to request and receive public information in accordance with the international instruments regulating their performance.

**Article 9th. - MINIMAL INFORMATION. 1.** Without prejudice to what is established in Articles 10, 11 and 12, the public entities must constantly maintain updated and at the disposal of the public, as a minimum, the following information:

- a) Their organic structure;
- b) Their powers, duties, functions and/or attributions of their bodies and internal dependencies;
- c) All the regulatory framework regulating their performance and the Constitutional, national or local legal and regulatory norms which application is under their responsibility;

- d) A general description of how they work, and which is their decision making process;
- e) Name, official address, telephone and electronic mail of the persons who perform a public function, of the public officers who are Directors, and of all the other public officers who perform public interest functions or those that due to the nature of their functions, are or must be in contact with the public;
- f) The updated list of all persons performing a public function or who are public officers<sup>8</sup>, with indication of their civil identification card number, the functions they perform, the salaries or fees perceived monthly, including all the additional items, supplementary benefits and/or expense allowances;
- g) The sworn statements of wealth of the persons who perform a public function or who are public officers;
- h) Description of institutional policy and action plans;
- i) Description of institutional programs under execution, with the definition of goals, the degree of their execution and the budget applied to such programs, publishing quarterly progress reports;
- j) Audit reports;
- k) Reports of the official trips performed within the territory of the Republic, or abroad
- l) Agreements and contracts executed, date of execution, object, total contract amount, terms of execution, control mechanisms and rendition of accounts, and, when appropriate, environmental impact studies;
- m) Official correspondence;
- n) Summary of banking accounts;
- o) Final consulting reports;
- p) Statements of results;
- q) List of current powers of attorney granted;
- r) Classification System and Index of existing documents;
- s) Description of the procedures established so that interested persons may have access to the documents in their possession, including the place of filing and the name of the responsible officer; and,
- t) Mechanisms of citizen participation.

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<sup>8</sup> See Articles 2 and 4 of Law 1626/00 “Of the Public Function”.

2. This information must be placed at the disposal of the interested parties through the Internet and at other digital and written media, or by any other appropriate means; it shall also be available in such a way as to facilitate its use and understanding by the people, and to assure its quality, veracity, timeliness and truth worthiness.

3. The public entities must also publish yearly, at the media indicated in the previous items and in accessible language, a summary report on the performance of its functions. The report will include, at the least, the following:

- a) Degree of compliance with the objectives and intended goals;
- b) Difficulties evidenced in the performance of their work;
- c) Amount of public resources executed; and,
- d) A relation of the contracts for acquisition of property, construction and rendering of services, with indication as to its object, terms, value, identification of contractors and level of execution.

**ARTICLE 10th. - MINIMAL INFORMATION FROM THE LEGISLATIVE BRANCH. 1.**

The National Congress must keep updated and at the disposal of the public, at the Internet and at other digital and written media, a data base containing all the laws of the Republic, and all the projects of law, with indication of their parliamentary transaction, and the opinions produced by the advising committees.

2. All participations by the Senators and Representatives at the meetings of their relative chambers must be recorded. The shorthand transcripts must be compiled in a Journal of Meetings, which shall be at the disposal of any interested person.

3. The meetings of both chambers of Congress, as well as those of the Departmental and Municipal Boards, are public, and the access by persons interested in attending them cannot be limited for reasons other than the space in the places made available to such effect, and the normal performance of the debate of the legislators and participants of the respective Boards. Access to the meetings of Congress or of its chambers may also be limited when the sessions are reserved, in accordance with the respective rules.

4. The result of all votes on projects of law or resolutions must be published, with indication as to the individual vote of each legislator.

**ARTICLE 11th. - MINIMAL INFORMATION FROM THE EXECUTIVE BRANCH. 1.**

The Executive Branch must keep updated and at the disposal of the public in the Internet and in other digital and written media, the following information:

- a) The current Nation's General Budget, the Budget Blueprint elaborated by the Ministry of Finance for the following year at the time of its presentation before the National Congress, and the Budgetary Execution of the previous year and of the current fiscal year, updated daily. Apart from the complete information

regarding the mentioned documents, summaries must be elaborated with the comparison of the expense in each area and its execution in each case, with that of the previous years; the percentage of budgeted and effective execution of each item in relation to the gross national product and the total budget, discriminating social investment in public health, education, housing and programs against poverty;

- b) All the Decrees promulgated by the President;
- c) The economic indicators;
- d) The data referred to the public debt, debt service, obligor entities, and comparison of the present situation with that of the previous years. Also, the projection of the public debt for the following years;
- e) Information related to public contracting, mentioning amounts, companies that were awarded, administrative procedures used for awarding, data of the companies and statement of contract execution. This information shall be maintained for at least five years;
- f) Data related to the destination of resources originating in public debt, with specific mention of the programs, investments and construction effected, companies and consultants contracted for their execution, procedures for contracting these entities, and present state of execution;
- g) Documents prepared by the General Direction of Statistics, Surveys and Census;
- h) Environmental Impact Statements, handling plans, soil use change plans, reforestation plans, concessions and permits for the exploitation of hydro resources;
- i) An annual report on human rights and the situation of prisons, with special emphasis on social rights to health and education;
- j) An annual report on the state and quality of environmental elements such as waters, air, soil, protected wild areas, fauna, flora, including their reciprocal interactions, as well as the activities and measures that have affected or may affect them;
- k) Statistics regarding citizen safety, with mention of the types and kinds of punishable acts reported monthly, by department and by city.

**2.** Municipal and Departmental governments must publish at the same media, all the information mentioned in the previous item regarding the local enclosure.

**3.** The contents of the Meetings of the Council of Ministers of the Executive Branch shall be recorded. The shorthand copies must be compiled at a Journal of Sessions, which shall be at the disposal of any interested person.

**ARTICLE 12th. - MINIMAL INFORMATION FROM THE JUDICIAL BRANCH.** The Executive Branch must maintain the following information updated and at the disposal of the public in the Internet and in other digital and written media:

- a) All of the sentences of the Supreme Court of Justice, interlocutory or final;
- b) List of all the cases that are for judgment before any Partition of the Supreme Court of Justice, order of the opinion issuers, priority, and probable date of resolution.
- c) A selection of the firm sentences of the Courts of Appeals and Courts of the First Instance in the Republic that are representative of the jurisprudence criteria of the magistrates and their variations;
- d) All of the Agreements and Administrative Resolutions of the Supreme Court of Justice;
- e) All of the Resolutions of the Court for the Judgment of Magistrates; and,
- f) All Resolutions of the Court of Ethics.

### **Chapter III. Causes of exception to the access to public information**

**ARTICLE 13th. - 1. CONFIDENTIAL, RESERVED AND CLASSIFIED INFORMATION.** The only causes of exception by virtue of which the public entities may totally or partially deny free access to public information, are the following:

- a) If the disclosure of the information affects the area of intimacy of a physical person;
- b) If the disclosure of the information affects the life, dignity, the security or health of any person;
- c) If the disclosure of the information causes detriment to competitive advantages protected by rights of intellectual property, except for information related with emissions of gases or particles, or the discharge of effluents;
- d) If the disclosure of the information impairs international relations, international defense of the rights of Paraguay, or the economic or commercial interests of the country during preparation or the carrying out of international negotiations;
- e) If the disclosure of the information prevents activities of supervision of the compliance and enforcement of laws and/or the prevention or investigation of punishable acts while these activities are being prepared or are underway;
- f) If the information is protected by banking secrecy;
- g) If the information were delivered to the public entity in closed envelope by virtue of procedures of selection of contractors, and its disclosure affects the

principle of equality among offering parties, until the conclusion of the contracting process; and,

h) If it pertains to the contents of exams in contests or oppositions to public positions, until the results of the same are provided;

**2.** The information mentioned in paragraph a) of item 1 in this Article is considered confidential information; the public entities can only provide it with the previous consent of the affected person, or by means of a judicial order.

**3.** The information mentioned in paragraphs b) until h) of item 1 in this Article shall be considered as reserved. This information will become public immediately after the objective causes for reserve shall cease.

**4.** The information which disclosure harm the sovereignty or territorial integrity of the Republic of Paraguay – provided there exist serious and reasonable evidences that its public knowledge cause harm in the mentioned instances – is considered classified information; the public entities that generate, or in which possession is such information, must catalog the same as classified in a founded action, and, within five working days thereafter, deliver all the antecedents of this decision in consultation to the Committee for Citizen Access to Information. The Committee for Citizen Access to Information may ratify totally or partially, or revoke this cataloguing, within thirty working days upon receipt of the antecedents; if it ratifies, it may establish the term during which the information shall remain as classified. This term will in no instance exceed ten years as from the cataloging effected by the competent public entity. Exceptionally, and with founded reasons, the term may be extended for another five years. The decision of the Committee for Citizen Access to Information, ratifying totally or partially the cataloging of certain information as classified, shall imply that all the antecedents serving as base to make the decision shall also be classified. Against the decisions of the Committee for Citizen Access to Information on the matter of cataloging information as classified, there shall only be an action of unconstitutionality.

**5.** The public entities shall not be able to oppose any exception when the requested information refers to violations of human rights or is relevant to investigate, prevent or avoid violations of the same.

#### **Chapter IV. Procedure to request access to public information**

**Article 14th. - APPLICATION FOR ACCESS TO PUBLIC INFORMATION. 1.** Any person may present an application for access to public information before any public entity. The application may be effected verbally or in written, personally, over the telephone or electronic mail, either in Spanish or in Guarani.

**2.** Every public entity must open an Office for the Access to Public Information, at which they will receive the applications for access to the information, and which must orient and assist the applicant so requesting, in a simple and comprehensible form; until such time as these offices are opened, this function will be the responsibility of the Entrance Desks at every public entity;



3. Any application for access to public information must contain the following data:

- a) Public Entity, or administrative unit of the same, to which the application for information is addressed;
- b) Clear and precise description of the information requested;
- c) Domicile or means selected to receive the information or notices; and,
- d) The mode preferred for the access to information to be granted, which may be direct consultation, simple copies, certified copy, or any electronic means.<sup>9</sup>

4. If the application does not contain the requested data, the officer assisting the applicant must let him or her know of this, so that the application be corrected or completed. Under the same assumption, if the application is effected via electronic mail, the applicant must receive indication, within two working days following the reception of the application, about which are the data that are missing in order to process the application<sup>10</sup>.

5. The officer who receives an application for access to information shall provide the applicant immediately, as evidence of the presentation of the application for access to information, a numbered countersign, via the same means by which the applicant presented the application.

6. If the application is presented at a public entity that is not competent to process the application for access to information, the receiving Office must remit the same to the public entity or entities that are competent, and inform the applicant of this. In no case, the presentation before a public entity that is not competent shall be a reason for rejection or shelving of the application for access to information.

**Article 15th. - TERMS.** 1. The public entities must pronounce themselves on any application for access to public information, in a term no longer than ten working days. This term may be amplified up to ten additional working days depending of the volume or complexity of the requested information. The public entities must communicate the applicant before the due date of the term, the reasons for which they make use of the extended term. Reasons that suppose negligence or disregard by the public entity in the processing of the application for access to information cannot be invoked as causes for the extension of the term.

2. The terms indicated above shall be reduced to the maximum in as much as materially possible.

3. When the information in possession of the public entities is reasonably related to preventing grave or irreversible harm to the health of persons or the environment, the same must be provided immediately, or in a term no longer than 48 hours upon its request, notwithstanding of working or non working days.

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<sup>9</sup> Electronic mail, pen drive, compact disk, etc.

<sup>10</sup> The applicant is not required to provide his or her full name, or to sign the application. In comparative law, the Mexico Federal District Law on Transparency and Access to Public Information, adopts the same system (Cfr. 47).

**Article 16th. - INFORMATION AT THE DISPOSAL OF THE PUBLIC.** When the information requested is permanently at the disposal of the public, or is in printed means such as books, summaries, brochures, as well as in electronic formats available in the Internet or by any other means, the applicant shall be informed of the source, place and form in which he or she may have access to such information, with which it will be deemed that the public entity has complied with its obligation to inform.

**Article 17th. - DIRECT CONSULTATION OF DOCUMENTS. 1.** If the application for access to public information consists in the direct consultation of data or original registries, these documents must be exhibited to the applicant during the time that is sufficient for its revision and reading.

**2.** Direct consultation of data or registries will only be facilitated in case the state of conservation of the documents allow this, or if they are stored in electronic format; in which case, access will be permitted via the electronic copy of the public information.

**Article 18th. - COPYING OF DOCUMENTS.** If the application for access to public information consists of the copy of data or registries, the electronic copying of such information will be privileged<sup>11</sup>. In case the information should be photocopied, the public entity may charge the applicant, at a maximum, an amount equivalent of .4% of a minimum daily salary for other non specified activities in the Capital city<sup>12</sup>, for each page.

**Article 19th. - OBLIGATION TO PRODUCE INFORMATION.** Public entities must provide the information requested provided it does not imply the obligation to create or produce information which is not in their possession at the time of the presentation of the application, except if they are legally obligated to produce the same, in which case they must provide it.

**Article 20th. - PROHIBITION OF WITHDRAWAL OF ORIGINAL DATA OR REGISTRATIONS.** Under no circumstances will the lending or withdrawal of original data or registrations be permitted from public entities archives where they are stored<sup>13</sup>.

**Article 21st. - DENEGATION OF ACCESS TO PUBLIC INFORMATION. 1.** Public entities may only deny access to public information if in the case is present one of the causes of exception contemplated in Article 13<sup>th</sup> of this law.

**2.** In such instance, the public entities must explain the applicant, within the terms prescribed in Article 15 of this law, which is the interest or right being protected with the denial, what is the harm that the disclosure of the information could cause in the concrete case, and that such harm is larger than the public interest in the knowledge

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<sup>11</sup> This intends to avoid the use of paper and ink, and to diminish the environmental impacts involved in the reproduction of information.

<sup>12</sup> This would be Guaraníes 200 at the present, amount which represents the average market price of a photocopy. With this amount, an additional cost for the Paraguayan State would not be generated, as it would replace the cost of acquisition and maintenance of photocopying machines, paper, ink and electricity, and even the time of the officer in charge of making the photocopies.

<sup>13</sup> Art. 56 of the Mexico Federal District Law on Transparency and Access to Public Information.

of the information. The applicant will also be informed of the term of the cataloging of the information as classified, and/or the estimated time in which the information will cease to be reserved information.

3. If the applicant does not receive a reply within the terms prescribed in Article 15<sup>th</sup> of this law, this will be deemed as the application being denied. The lack of reply to the applicant requesting access to public information is considered a grave fault under the terms of Law 1626/00 “on the Public Function”, violating the obligation to attend to the essential duties for which [an officer] has been designated<sup>14</sup>. Spontaneously, or upon the reporting from any person, without regard of such person being the applicant or nor, a summary administrative proceeding must be initiated in order to individualize those responsible and apply the corresponding sanctions.

## **Chapter V. Procedure upon the denegation of access to public information**

**Article 22nd. - TERMS AND FORM OF RECURRING WITH COMPLAINT BEFORE THE COMMITTEE FOR CITIZEN ACCESS TO INFORMATION** 1. In case the denial of an application to access information, the applicant may resource to a complaint before the Committee for Citizen Access to Information at any moment, and without the need to count with the sponsorship of an attorney.

2. All the evidence accrediting the invoked actions and all documentary evidence will be offered together with the presentation of the complaint.

3. If the applicant for access to public information has his or her domicile more than fifty kilometers away from the site of the Committee for Citizen Access to Information or of its delegate offices, he or she may present the complaint before the site of the Departmental Governor’s Office corresponding to his or her domicile, or before the Municipality, at his or her choice. Local authorities must immediately remit the complaint and all the accompanying documents, via the most expedited means.

4. The Committee for Citizen Access to Information may establish the conditions for the presentation of a complaint on the denial of access to information, via the Internet.

**Article 23rd. - SUBSTANTIATION OF THE COMPLAINT FOR DENIAL OF ACCESS TO INFORMATION.** 1. The Committee for Citizen Access to Information shall notify the public entity subject of the complaint for the denial of access to public information, of its terms, within two working days upon its receipt.

2. The public entity subject of the recourse shall have the term of five working days to formulate its discharge and offer the evidence it pretends to use, and enclose the entire documentary in its possession. If the subject public entity considers that the requested information is classified information under the terms of Article 13th, item 4, it must enclose in this instance the resolution cataloging the information as such. In these assumptions, Article 13th, item 4 will be of application.

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<sup>14</sup> See Arts. 68 and 69 of Law 1626/00.

**3.** The Committee for Citizen Access to Information, spontaneously, or at the request of a party, may dispose the production of probatory measures for a term that will not exceed ten working days. Exceptionally, by resolution substantiated in the particulars of the case, and before the expiration of the indicated term, the terms for the production of evidence may be extended for five additional working days.

**4.** Upon the closure or expiration of the term for the production of probatory measures, the Committee for Citizen Access to Information shall resolve on the complaint for the denial of access to information, within the following three working days.

**5.** In the resolution, the Committee for Citizen Access to Information shall determine if the matter deals with confidential information, reserved information, or public information. In the last case, it shall establish a prudential term to generate and/or deliver the information requested; when dealing with the mere delivery of information, the term shall not exceed fifteen working days. In the same resolution, the Committee will express the need to initiate administrative summary proceedings on some officer, the responsibility of persons who perform a public function without being officers, and/or denounce the eventual committing of a punishable action before the Public Ministry.

**6.** All acts and resolutions of the Committee for Citizen Access to Information, as well as its fundament and the proceedings used, shall be public, except when dealing with confidential, reserved, or classified information.

## **Chapter VI. Judicial Resource against the resolutions of the Committee for Citizen Access to Information**

**Article 24th. - COMPETENT COURTS.** The resolutions of the Committee for Citizen Access to Information that do not deal with information that is catalogued as classified information, shall be subject to appeal:

- a) If pertaining to a person domiciled within the First Judicial District, or of a public entity of the National Government, directly before the Court of Accounts.
- b) If pertaining to a person domiciled in any other part of the interior of the country or departmental or municipal governments, directly before the Court of Appeals corresponding to his or her Judicial District, or before the Court of Appeals that is closest to his or her domicile.

**Article 25th. - TERMS AND PROCEDURE. 1.** The recourse may interposed and founded within the term of sixty days<sup>15</sup> of being notified of the resolution of the Committee for Citizen Access to Information. The Court shall notify the other party, which must respond within the term of five days.

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<sup>15</sup> It is the same term to present a Protection Action (Cfr. Art. 567 in fine, Civil Procedural Code).

2. The cause may be open for evidence only in the instances prescribed in Article 430 of the Civil Procedural Code.

3. Upon response of the notification, or closure of the probatory period, the Court shall issue sentence without other transaction within no longer than three days, and the sentence will cause execution.

4. If from the fundamentals of the recourse, or in any other moment during the proceedings, it should result, to the opinion of the Court, the need for its immediate action, the Court will dispose provisionally on the corresponding measures in protection of the right or freedom presumably denied or impaired<sup>16</sup>.

## **Chapter VII. The Committee for Citizen Access to Information**

**Article 26th. - CREATION.** 1. The Committee for Citizen Access to Information is created within the sphere of the Executive Branch, as a decentralized body of the State, autarkic, autonomous, with legal public person status and functional independence.

2. The Committee for Citizen Access to Information shall relate directly with the Office of the President of the Republic, without prejudice that it may establish direct relations with other official and private entities. It shall have its site in the City of Asuncion, but may establish Delegate Offices in the interior of the country.

3. The economic and financial activities of the Committee for Citizen Access to Information shall be subject to the control of the Office of the Republic's General Comptroller.

**Article 27th. - OBJECT.** The Committee for Citizen Access to Information has as its object to promote governmental transparency and contribute to guarantee the effective enjoyment of the right to access to public information.

**Article 28th. - FUNCTIONS AND ATTRIBUTIONS.** The Committee for Citizen Access to Information has the following functions and attributions:

- a) To comply and make comply this law in the scope of its competence;
- b) To resolve with fundament on the complaints for the denial of access to public information<sup>17</sup>;
- c) To participate in the process of cataloguing information as classified;
- d) To issue general resolutions for the better compliance with this law, and eventually, to request of the public entities to adjust their procedures and systems of attention to the public, towards the same end;

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<sup>16</sup> See Art. 27 of Uruguayan Law 18.831 on access to public information.

<sup>17</sup> In the same manner as the Secretary for the Public Function has competence for the resolution of administrative summary proceedings to public officers of the legislative and judicial branches, the CACI shall be competent to resolve, in the administrative sphere, complaints for the denials of access to information, which is a typical administrative activity.

- e) To propose to the branches of the State, on norms or regulations that optimize governmental transparency and improve the possibilities of effective access to public information, in particular, by vulnerable groups;
- f) To prepare reports and statistics on governmental transparency and access to public information, and on the compliance with this law;
- g) To hire and dismiss its officers;
- h) To cooperate with, and receive cooperation from the other public entities of the State, national, foreign or international legal persons, governmental or not, for the better fulfillment of its object;
- i) To elaborate and approve its own internal rules;
- j) To elaborate and present its institutional budget to the Ministry of Finance;
- k) All the other functions and attributions to be displayed and exerted in order to fulfill its object.

**Article 29th. - PATRIMONY.** The patrimony of the Committee for Citizen Access to Information shall be conformed of:

- a) The annual assignments contemplated in the Nation's General Budget;
- b) The real estate and movable properties it acquires under any title, and the benefits from these properties;
- c) The donations, endowments and legacies it receives.

**Article 30th. - INTEGRATION. 1.** El Committee for Citizen Access to Information is integrated with three members who enjoy autonomy and immobility during the term of their mandate, and who may only be removed by reason of ill performance of office according to the procedure for political judgment as established in the Constitution. At least one of the members of the Committee for Citizen Access to Information shall be a woman.

**2.** The members of the Committee for Citizen Access to Information are named by absolute majority of the Senate members, from a list of three candidates proposed by the Chamber of Representatives. The applicants for the integration of the lists shall be elected from among those who have successfully approved the public opposition contest as provided for in Article 15 of Law 1620/00 "OF THE PUBLIC FUNCTION".

**3.** The persons integrating the lists of three must be persons of renowned honor and juridical versed, in particular in the sphere of human rights.

**4.** Prior to the nomination by the Senate of the members of the Committee for Citizen Access to Information, all the background information on the candidates of the lists of three shall be published in the Internet pages of the Office of the President of the Republic, of the Chambers of the National Congress, and of the Supreme Court of Justice, for three weeks. During this period, any person may express a founded opinion on any candidate on the lists.

**5.** Within five days and fifteen working days after the expiration of the term to formulate objections, a Public Hearing will take place at the Bicameral Chamber of the National Congress, at which the candidates in the lists of three will appear to defend their candidacies and to respond to the objections formulated against them. At this opportunity, any legislator may interpellate them. The President of the

Republic may participate of the Public Hearing, or may send a representative, and shall have one week after the same to evaluate the candidates in the list and formulate remarks.

**Article 31st. - DURATION.** The members of the Committee for Citizen Access to Information last four years in their office, shall receive a remuneration equivalent to that of a judge at the Court of Appeals, and may only be reelected for one new successive period.

**Article 32nd. - INCOMPATIBILITIES AND IMMUNITIES.** The members of the Committee for Citizen Access to Information have the same incompatibilities and immunities as the judicial magistrates. During their mandate, they may not exert any political party activity whatsoever.

**Article 33rd- LEGAL REPRESENTATION.** The legal representation of the Committee for Citizen Access to Information shall be exerted by its President, who shall be elected by his or her equals and will have a term of office of one year, and who may be reelected.

It corresponds to the President of the Committee for Citizen Access to Information:

- a) To comply with and make comply the resolutions of the Committee for Citizen Access to Information;
- b) To plan, direct, organize and coordinate the functioning of the Committee for Citizen Access to Information, in accordance with the directives established by the majority of its members;
- c) To execute the other actions and celebrate the necessary agreements for the effective fulfillment of the object of the Committee for Citizen Access to Information;
- d) All the other attributions established in the Internal Rules.

## **Chapter VIII. Office of the Ombudsman's Center for Access to Public Information**

**Article 34th. - CREATION. 1.** The Center for Access to Public Information is created as an organ within the structure of the Office of the Ombudsman.

**2.** The services of the Center for Access to Public Information must be rendered at all the Delegate Offices of the Ombudsman.

**Article 35ft. - OBJECT.** The Center for Access to Public Information has as its object to cooperate in guaranteeing the effective enjoyment of the right of access to Public Information, by means of free legal assistance to all persons so requesting, in particular to the members of vulnerable groups.

**Article 36th. - FUNCTIONS AND ATTRIBUTIONS.** The Center for Access to Public Information has the following functions and attributions:

- a) To advise all persons on how to exert the right of access to Public Information.

- b) To sponsor and/or represent free of charge all persons who need assistance to present complaints before the Committee for Citizen Access to Information and/or judicial appeals, upon the denials of public entities in the delivery of public information.
- c) To denounce public officers who by action or omission have permitted the expiration of the terms to respond to requests of access to information, or who have unjustifiably denied, totally or partially, Public Information that has been requested from them.
- d) To coordinate before the Committee for Citizen Access to Information and to carry out training to public officers and any other group of persons interested on the exercise of the right of access to Public Information.
- e) To coordinate with the Ministry of Education and Culture on the inclusion and diffusion of the right of access to Public Information in education programs.
- f) All the other activities as directed by the Ombudsman.

**Article 37th.- DIRECTION. 1.** The Center for Access to Public Information shall be managed by a Director named by the Ombudsman, and confirmed by the Chamber of Representatives.

**2.** Prior to the nomination by the Ombudsman of the Director of the Center for Access to Public Information, all background information on the candidate shall be published in the Internet page of the Office of the Ombudsman, for three weeks.

**3.** The Director of the Center for Access to Public Information shall receive a remuneration equivalent to that of Judge of the First Instance.

### **Chapter IX. Faults and sanctions. Compulsive Compliance**

**Article 38th.- FAULTS.** Without prejudice of what is established in Article 21st, item 3, the following shall constitute grave faults:

- a) The lack of adequate fundamentals upon denial of access to Public Information;
- b) The unjustified negation to deliver, totally or partially, public information, when its delivery has been ordered.

**Article 39th.- SANCTIONS. 1.** With a previous summary proceeding under the terms of the Law 1626/00 "OF THE PUBLIC FUNCTION", the committing of any of the faults prescribed in the precedent Article shall be sanctioned with the suspension in the position without salary up to thirty days.

**2.** In case of relapse in a period no longer than five years since the committing of the first fault, it shall correspond the sanction of destitution and disqualification to exert public office for the term of two to five years.



3. These sanctions shall be independent of the eventual civil and/or criminal responsibility of the public officer who committed one of the faults prescribed in this Law.

**Article 40th. COMPULSIVE COMPLIANCE.** 1. Any final decision of the Committee for Citizen Access to Information or the Judicial Branch ordering the delivery of public information must be complied with within the terms provided.

2. the judge on duty of the first instance in Civil y Commercial matters, in case dealing with firm decisions of the Committee for Citizen Access to Information, or the same Court that has ordered the delivery of Public Information may, at the request of a party, establish compulsive pecuniary and progressive sanctions tending to the compliance of the mandate by the obligated public entity, which amount shall be in favor of the applicant damaged by the incompliance. The sentences shall graduate between ninety (90) and three hundred (300) minimum daily wages for diverse non specified activities, according the importance of the information requested, and may be waived, or be subject to readjustment, if it desists of its resistance and justifies its procedure totally or partially. The payment of these sentences shall be the responsibility of the public officer in charge of de delivery of the information, and the highest responsible person at the obligated public entity.

## **Chapter X. Archives**

**Article 41st.- ARCHIVES OF TRANSACTION AND CONCENTRATION.** 1. All the public entities shall have archives. These archives shall be organized in transaction and concentration archives.

2. The transaction archives shall be conformed of all the documents in transaction, according to the order as disposed by each public entity.

3. The concentration archives shall be conformed by all the documents which transaction has concluded. The documents in these archives shall be catalogued and the catalog shall be permanently updated and will be at the disposal of the public at all moments, through the Internet.

**Article 42nd. REMITTANCE TO THE NATION'S GENERAL ARCHIVE.** Upon completion of the terms as established in Law 1099/97 "Establishing the obligation to deposit official documents at the Nation's General Archive", public entities shall remit the documents of the concentration archives to the Nation's General Archive.

## **Chapter XI. Final Dispositions**

**Article 43rd.-** The public entities shall provide in their institutional budgets the necessary resources to start implementing the dispositions of this law as from January 1, 2011.

Municipalities from the second to fourth categories shall begin the implementation of this law as from January 1, 2012.

**Article 44rh.** - The National Telecommunications Commission, through the Universal Services Fund, shall contribute to finance the projects of technological adjustment by public entities which finality is to optimize the application of this law.

**Article 45ft.**- The sanctions prescribed under this Law shall be applicable as from January 1, 2013.

**Article 46th.** - The Secretary of the Public Function is obligated to organize the means so that the dispositions of this Law are effectively known by all public officers before December 31, 2011. This, without prejudice of the permanent training activities on the application of this Law, which must be performed by all public officers.

**Article 47th.** Communication to the Executive Branch is hereby ordered.