

RIGHT TO ACCESS INFORMATION RIGHT TO ACCESS INFORMATION RIGHT TO ACCESS INFORMATION RIGHT TO ACCESS INFORMATION

The right to access information guarantees everyone the right of access to all information and documents related to the management of public affairs regardless of the status of the concerned person and the purpose for obtaining the required information.



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WHY IS THE RIGHT TO ACCESS INFORMATION IMPORTANT?

RIGHT TO ACCESS INFORMATION

Helps individuals to make their decisions based on correct data

A necessary condition to combat corruption and mismanagement of public funds

Contributes actively to the support of scientific research

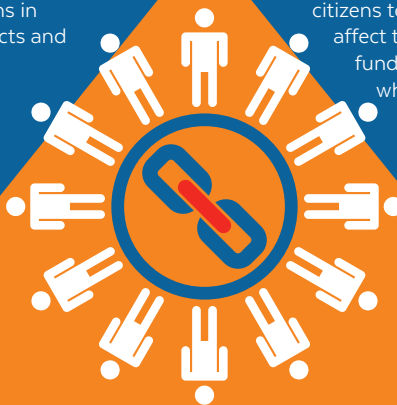
Contributes to the stimulation of trade and the creation of a strong economy

Is necessary to detect violations and protect rights

Establishes and supports the democratic and participatory practice of governance

The **right to access information** is one of the most important mechanisms in helping journalists gather the facts and data necessary to fulfil their professional function.

The **right to access information** enables all citizens to know how the decisions that affect them are made, how public funds are handled and according to which criteria institutions act.



It enables civil society organizations to acquire the information required to develop effective programs and strategies, and to perform their role as watch-dogs effectively.

WHAT LEGAL FRAMEWORK REGULATES THE RIGHT TO ACCESS INFORMATION?



UNITED NATIONS



1946: Resolution No.59 of the General Assembly of the United Nations

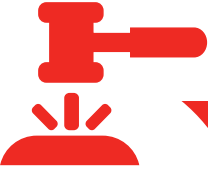
1948: Article 19 of the Universal Declaration of Human Rights

1966: Article 19 of the International Covenant on Civil and Political Rights

2017: Recommendation of the OECD Council on Open Government.



Article 32 of the Constitution of the Republic of Tunisia.



Organic Law No.22 dated March 24, 2016 on the Right to Access Information and its implementing regulations.

These legal texts establish the basis of the right to access information and support the exercise of this right by adopting the following principles:

Disclosure of maximum information

Impose the obligation of the proactive dissemination of information of the concerned entities

Protect individuals who disclose information necessary to combat corruption

Narrow the scope of exceptions

The right of the person who accesses information to freely reuse it

Free access to information or non-imposition of excessive costs

Facilitate the procedures of accessing information

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WHAT INFORMATION CAN BE ACCESSED?



You may request access to any recorded information, whatever its history, form or medium, which has been produced or obtained by the entities subject to the provisions of the Law on Access to Information during the exercise of their activities.



You may request access to any information **regardless of your status, your interest** in obtaining such information, or your relationship to it.



You may request access to any information you choose, and you are not to be questioned for making a request, no matter what information is being sought.

DON'T BE AFRAID TO REQUEST INFORMATION...

YOUR RIGHT IS GUARANTEED, AND THE LAW PROTECTS YOU!!!

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DON'T BE SCARED OF EXCEPTIONS TO THE RIGHT TO ACCESS INFORMATION!

Exceptions to the right to access information are few, justified, and explicitly mentioned in the law. They are divided into:

- Exceptions related to public security, national defense, international relations related to public security or national defense, the protection of public interest, personal data, and privacy;
- Exceptions related to the protection of whistle-blowers.

IN ORDER TO SUPPORT TRANSPARENCY AND PROTECT WHISTLE-BLOWERS, ACCESS TO WHISTLE-BLOWER IDENTIFICATION DATA CANNOT BE REQUESTED

The entity concerned by the application for access to information shall under no circumstances respond to applications for the disclosure of data on whistle-blowers. Responding to these applications is considered administrative misconduct, resulting in disciplinary sanctions and severe penalties imposed on the perpetrator

EXCEPTIONS TO THE RIGHT OF ACCESS TO INFORMATION RELATED TO THE PROTECTION OF PUBLIC INTEREST AND PERSONAL DATA:

If the application for access may be damaging to one of the following areas

- Public Security
- National Defense
- International Relations regarding public security or national defense.
- The rights of others to protect their private lives, personal data, and intellectual property.



And the following conditions are met

- The expectation that severe damage will be done to one of these areas, whether immediate or not **(Examine damage)** with a lack of public interest in providing access to the information **(Examine the public interest)**.
- The interests to be protected are deemed more important than the benefit to the public interest of making the information available.



THE RESULT

Rejection of application for access.



EXCEPTIONS RELATED TO THE PROTECTION OF PUBLIC INTEREST AND PERSONAL DATA ARE NOT TAKEN INTO ACCOUNT, AND THE REQUESTED INFORMATION SHOULD BE PROVIDED:

When access to the information covered by the exception is necessary to detect or investigate serious violations of human rights or war crimes, or to prosecute their perpetrators, **unless this detrimental to the public interest**

When public interest is given priority over the damage that may be caused to the protected interests because of a serious threat to health, safety, the environment, or a criminal act.

Upon the expiration of the deadlines stipulated by Law No. 95 dated August 2, 1988 on archives.

TO WHICH ENTITIES CAN AN APPLICATION FOR ACCESS INFORMATION BE SUBMITTED?

You can request information held by public entities and corporate bodies governed by private law and operating a public facility, and by organizations, associations, and entities that benefit from public funding as shown in the following table:

	<p>Presidency of the Republic and related entities</p>		<p>Presidency of the Government and related entities</p>
	<p>Assembly of the Representatives of the People and related entities</p>		<p>Ministries and entities under their supervision in Tunisia and abroad</p>
	<p>Central Bank</p>		<p>Public institutions and establishments and their representations abroad</p>
	<p>Local and regional public entities: Regional Commissariats for Education, Agriculture, Culture, etc</p>		<p>Local Communities: municipalities, regions, and provinces</p>
	<p>Judicial bodies, Supreme Judicial Council, Constitutional Court , and Court of Accounts</p>		<p>Constitutional bodies: ISIE / HAICA and others</p>
	<p>Independent public bodies: Access to Information Authority/ National Authority for the Protection of Personal Data, and others</p>		<p>Regulatory bodies: The National Telecommunications Commission / General Authority for Insurance and others</p>
	<p>Corporate bodies governed by private law</p>		<p>Organizations, associations, and all entities that benefit from public funding</p>

HOW CAN ONE APPLY FOR ACCESS TO INFORMATION?

The submission of an application to access information is a very easy process. Any natural or legal person can submit a written application to access the requested information, in accordance with a pre-established form provided by the

concerned entity, via the website or on site. The application may also be submitted on ordinary paper, provided that it contains the obligatory references mentioned in Articles 10 and 12 of the Law on Access to Information.

OBLIGATORY REFERENCES THAT MUST BE INCLUDED IN THE APPLICATION FOR ACCESS:



Name, title, and address of the natural person:
(Zuhair El Yahyaoui,
13 Al Chohadaa Street, 2005 Tunis)

Official name and registered office of the legal person:
(Al Amal Association,
14 Al-Hurriya Street, 2011 Future City)

Identify the required information and the entity concerned with the submission of this information:

Determine how the applicant wants to access the information:
obtaining a hard copy / obtaining an electronic copy of the information when possible / obtaining extracts from the information

TEMPLATE THAT CAN BE FOUND IN ALL PUBLIC ENTITIES

مطلب نفاذ إلى معلومة
(قانون الأساسي عدد 22 لسنة 2016 المؤرخ في 24 مارس 2016 والذي يتعلق بنقل في النفاذ إلى معلومة)

1. إرشادات خاصة بطلب النفاذ إلى المعلومة⁽¹⁾:

شخص طبيعي

- الاسم واللقب:

- العنوان:

- الهاتف:

- العنوان الإلكتروني:

شخص معنوي

- التسمية الاجتماعية:

- عنوان المقر الاجتماعي:

- الهاتف:

- العنوان الإلكتروني:

2. المعلومة المطلوب النفاذ إليها:

ملاحظات أخرى	الرجوع (إن وجد)	الهيكال المعنى	بيان المعلومة

ملاحظة: لا ينظر طلب النفاذ بغير التبرار أو التماس من الحصول على المعلومة.

3. صيغة النفاذ إلى المعلومة المطلوب النفاذ إليها⁽²⁾:

الإخراج على المعلومة على عين المكان⁽³⁾

الحصول على نسخة ورية من المعلومة

الحصول على نسخة إلكترونية من المعلومة⁽⁴⁾

في:

تعداد النسخ:

وصل في إيداع مطلب نفاذ إلى المعلومة

تاريخ الإيداع:

المطلب الرقم المرجعي:

المساحبة (إن وجدت):

التميم

1- نوع الصيغة (ع) داخل الخانة الخاصة.
2- لا يُمكن في ذات الإيداع.



Be aware that you are not required to provide the number of your ID card, passport, or any other personal document.

You do not need to use any of your personal documents to exercise your right to access information.



You may even use a nickname or non-legal name in the application; however, this implies that you will lose your right to appeal the rejection of your application

NO NEED TO SAY WHY!!!

In principle, no matter what information is required, you do not need to state the reasons why you are requesting the information, nor your interest in obtaining it (Article 11 of the Law).



FOR URGENT CASES: YOU MUST EXPLAIN WHY AND HOW!!!

However, if you want to urge the relevant entity to respond to you within the shorter time limits set forth in Article 17 of the Law on Access to Information, estimated at no more than 48 hours from the date of the application's submission, you must indicate why you urgently require the information and how this may affect the life or freedom of a certain person.



The application for access must be submitted either directly to the relevant entity in exchange for a receipt, or by a secured mail, fax, or e-mail with notification of receipt.



The person in charge of access to information must provide the necessary assistance to the applicant for access in case of a disability or inability to write, and when the applicant is deaf or blind.

**SO...
WHO IS THE PERSON IN
CHARGE OF ACCESS TO
INFORMATION ???**



HOW MUCH DOES IT COST TO ACCESS INFORMATION?



If the application for access does not contain the required data, the person in charge of access to information shall inform the applicant, by any written means, of the deficiencies in the application and ask that it be corrected, within fifteen (15) days from the date of submission.

- The person in charge of access to information is the employee appointed by every entity governed by the Law on Access to Information.
- The data of the person in charge of access to information and his/her deputy (name, title, position, and job description), as well as the way to contact them (workplace, telephone number and email address) must be available to the public and published on the concerned entity's website.
- The person in charge of access to information and his/her deputy in particular receive, process, and reply to the applications for access to information.

**PRINCIPLE:
ACCESS TO INFORMATION IS**

FREE OF CHARGE

EXCEPTIONS

- Access is provided in exchange for a small, pre-defined fee and the applicant is informed of this amount in advance upon requesting the information.
- These fees shall not exceed the expenses incurred by the concerned entity in preparing a copy of the required information.

**IN ALL CASES,
NO PAYMENT SHALL BE REQUIRED:**

- When the information is made available on site.
- When the information is sent electronically or when it is uploaded to a device possessed by the applicant (CD, flash disk, memory card).

WHAT ARE THE DEADLINES FOR RESPONDING TO AN ACCESS INFORMATION APPLICATION?

In principle, the concerned entity shall respond to each application for access it receives **at the earliest and not later than twenty (20) days from the date of the application's submission or the date of its correction.**

However, the terms of responding to applications for access **are not fixed** and vary according to the nature of the information requested and the means of its access, as shown in the following figure.

TWENTY DAYS | 20 DAYS

**48
HOURS**

When an application for access to information has an impact on the life or freedom of a certain person, the concerned entity shall respond by any written means as soon as possible, and immediately if feasible, within a maximum period of forty-eight (48) hours from the date of the application's submission.

**10
DAYS**

The terms of response shall be reduced to ten (10) days if the application for access relates to the review of information on the spot.

**10+
DAYS**

If several documents from the same entity must be obtained or reviewed, the normal term estimated at twenty days shall be extended by another ten (10) days, and the entity shall inform the applicant of this.

IN ALL CASES, NON-RESPONSE BY THE CONCERNED ENTITY TO AN APPLICATION FOR ACCESS WITHIN THE LEGAL DEADLINES REFERRED TO ABOVE SHALL BE CONSIDERED AS A TACIT REJECTION AGAINST WHICH A COMPLAINT OR AN APPEAL CAN BE FILED.

A tacit rejection decision is a decision that results from the concerned entity's silence in response to the application for access or the complaint submitted to it and the non-response to the application within the legal deadlines (20 days for an application for access and 10 days for a complaint).

The applicant must keep evidence proving that he/she has applied for access or filed a complaint (direct deposit receipt, or a copy of the mail, fax, or e-mail) to prove the expiry of legal deadlines and thus exercise his/her right to file a complaint or appeal.

HOW THE CONCERNED ENTITY WILL RESPOND TO APPLICATION FOR ACCESS



Approval of application for access and provision of full information required



Partial provision of the required information if one of the parts requested is covered by an exception



Total rejection of application for access through a reasoned decision or the expiry of legal deadlines



If the concerned entity approves your application for access without you being able to obtain the requested information, your application is then rejected and you may file a complaint or an appeal against this rejection.



If the application for access is related to information previously published by the concerned entity, the person in charge of access must inform you of this and determine the location where it was published, its publication format, date, and the way to review it.



If the information you received is found to be incomplete, the concerned entity must help you get the supplementary and necessary data and clarifications that you require. In this case, it shall not argue that the information has been given to you and that it has responded to your application.



In the case of the rejection of the application for access based on a justified response, the effect of rejection ends with the disappearance of the reasons for rejection set forth in the response to the application.

WHAT SHOULD ONE DO IF ONE'S APPLICATION IS REJECTED?

SO, IF MY APPLICATION IS REJECTED IN WHOLE OR IN PART ... WHAT SHOULD I DO???

DON'T WORRY...

YOU CAN SUBMIT A COMPLAINT TO THE HEAD OF THE DEPARTMENT OR APPEAL THE DECISION OF ACCESS REJECTION... IT ISN'T UP TO THEM!!!

COMPLAINT TO THE HEAD OF THE CONCERNED ENTITY

In case of rejection, the applicant may submit a complaint to the head of the concerned entity. The “head of the entity” is the person holding the highest position at the entity to which the application is submitted (the governor for the governorate / the regional director for the

regional departments/ the head or managing director for public establishments / the minister for the ministry / the head of an association receiving public funding / the head or general manager of the company that runs a public facility).

YOU HAVE THE RIGHT TO CHOOSE

HEAD OF ENTITY

The complaint shall be submitted to the head of the concerned entity within twenty days from the date of the rejection decision. The complaint shall be considered within a period of ten (10) days.

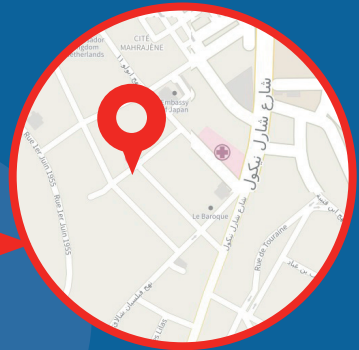
INFORMATION ACCESS AUTHORITY

The submission of a complaint to the head of the concerned entity is optional. The applicant may choose not to do so, and instead exercise his right to appeal the rejection decision directly before the Information Access Authority.

YOU MAY ALSO FILE A COMPLAINT OR APPEAL IN THE FOLLOWING CASES:

- When the applicant does not receive a response to the application in due time or is not informed of the outcome of his/her application.
- When the rejection of the application is not justified.
- When the document specified in the application is not provided to the applicant.
- When an unfounded fee is requested in exchange for the provision of the required document.

The headquarters of the Information Access Authority is located on Ahmed Al Gharbi Road No. 8, Al Manzah 1, 1004



APPEAL BEFORE THE ACCESS TO INFORMATION AUTHORITY:

DIRECT SUBMISSION

You can appeal a decision rejecting access issued by the concerned entity before the Information Access Authority no later than **twenty (20) days** from the date of receiving notification of the explicit rejection decision or from the date of the tacit rejection decision.

HOW TO SUBMIT

The appeal shall be submitted directly to the Authority's headquarters or sent by registered letter, fax, or e-mail, and the appellant shall receive a notification of receipt.

INFORMATION NEEDED

The appeal must contain the exact identity and address of the appellant, a copy of the rejected application, a copy of the rejection decision and any evidence substantiating the rejection, as well as the legal and factual grounds supporting the application for access .

DO NOT HESITATE TO APPEAL THE DECISIONS OF ACCESS REJECTION BEFORE THE INFORMATION ACCESS AUTHORITY:

- Because the Authority is independent of all other powers and is only governed by the law.
- Because the members of the Authority are specialized in access to information, and they include judges, lawyers, and representatives of journalists and civil society.
- Because the Council of the Authority has wide-ranging powers that enable it to carry out the necessary investigative work at the headquarters of the concerned entity impartially.
- Because the Authority shall rule on the case **as soon as possible, no later than within forty-five (45) days.**
- Because the Authority informs both the concerned entity and the applicant in person of its decision on the case, and it publishes this decision on its website.

APPEAL BEFORE THE ADMINISTRATIVE COURT:

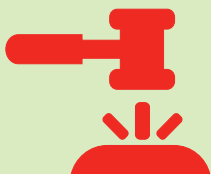
If the Information Access Authority supports the rejection of an application by the concerned entity, you can appeal the decision before the Administrative Court.



The Authority's decision may be appealed before the Appeals Chambers of the Administrative Court in accordance with the procedures set forth in Articles 59 to 66 of the Code of Administrative Procedure.



This appeal must be filed within a period of 30 days from the date of notification of the Authority's decision.



The appeal against the Administrative Court's decision may be filed by an attorney before either an Appeals Court or the Cassation Court.

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ACCESS TO INFORMATION: A RIGHT, NOT A PRIVILEGE!

All citizens have the right to access information. Any employee working at entities governed by the Law on Access to information who infringes upon this right or disrupts its exercise is subject to severe disciplinary and criminal sanctions.

6'0"

5'6"

5'0"

4'6"

4'0"

3'6"

3'0"



Failure to respect the provisions of this law is a disciplinary error resulting in disciplinary consequences.

Intentionally disrupting access to information is considered a criminal offense resulting in a criminal penalty, which consists of a fine ranging from five hundred (500) dinars to five thousand (5,000) dinars.

Any person who intentionally destroys information illegally, or induces another person to do so, is subject to a penalty of one year imprisonment and a fine of one hundred and twenty thousand (120,000) dinars).

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YOU CAN RE-USE ACCESSED INFORMATION FREELY!



YOU ARE FREE TO REUSE THE INFORMATION


- If you receive information, you can freely re-use it in investigative press reports, association activities or to provide value-added services, etc.
- There are no restrictions or limitations on the confidential nature of the information or the way it is obtained that restrict the right of its reuse.




THE RIGHT TO ACCESS INFORMATION IN A NUTSHELL

 Everyone has the right of access to all public information.

 The right is recognized in article 32 of the Constitution of the Republic of Tunisia and in the Organic Law No. 22 dated March 24, 2016.


 Access to any written information produced or obtained by the entities governed by the Law on Access to Information during the exercise of their activities may be requested.


 No matter which information you are requesting, you do not need to state the reasons why you are requesting the information, nor your interest in obtaining it.

 Exceptions to the right to access information are few, justified, and explicitly mentioned in the law.

 The submission of an application to access information is a very easy process.

 Principle: Access to information is free of charge.

 In principle, the concerned entity shall respond to each application for access it receives as early as possible, and no later than within twenty (20) days.

 If the application is rejected, a complaint can be submitted to the head of the department or an appeal can be made before the Access to Information Authority.

**DO NOT HESITATE...
EXERCISE YOUR RIGHT OF ACCESS TO
INFORMATION!**