

LAW
NO. 146/2014
ON NOTIFICATION AND PUBLIC CONSULTATION

On notification and public consultation

Pursuant to the Articles 78 and 83, item 1 of the Constitution of the Republic of Albania,
Council of Ministers,

ASSEMBLY

OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I
GENERAL PROVISIONS

Article 1

Objective

1. This law regulates the process of notification and public consultation of the draft-laws, national and local strategic draft-documents, and policies of high interest for the public.
2. This law stipulates the procedural rules which shall be applied in order to ensure the public transparency and participation in the policy-making and decision-making processes from the public entities.
3. This law aims the encouragement of transparency, accountability and integrity of the public authorities.

Article 2

Definitions

In this law, the following terms have these definitions:

1. “An Individual administrative act” is every expression of will by a public organ, for exercising its public function, to one or more individually subjects of rights, which creates, amends or terminates a concrete legal relation.
2. “Normative sub-legal act” is every expressed will by the public organ, for expressing its public function, which regulates relations defined by the law, determine general behavioral rules and which implementation never terminates.
3. “Civil emergency” is a situation caused by the natural, ecological, industrial, social factors, terrorist actions, military actions (during wartime), which bring immediate and serious damages to life, to the population and livestock health, to the assets, cultural heritage and environment.

4. “Group of interest” is every non-profit organization which represents the interests of a natural or legal group of people, as well other affected or interested subjects for the draft-acts which are liable to the public consultation.

5. “Public consultation” is the attraction of the opinions and suggestions of the interested parties on the draft-act content and improvement, from the publication time of the draft-act until its final approval.

6. “Responsible Minister” is the minister responsible for the information technology area.

7. “Preliminary notification” is the official invitation to participate in the process of providing preliminary information or opinions, before the initiation of the project-act drafting.

8. “Public Notification” is the official invitation to participate in the consultation process of the proposed project-act and the initiation of the public consultation procedures.

9. “Public Organ” is every central government organ, which conducts the administrative functions, every organ of the public entities, in the measure that they conduct administrative functions, every local government organ, that conducts administrative functions, every Armed Forces and every other structure, for the time they conduct administrative functions, and every natural and legal person, to whom is given by law, the sub-legal act or any other form, defined by the legislation in force, the right of exercising the public functions.

10. “Decision-making process” is a process which includes the project- acts drafting and approval processes from the public organs.

11. “Project-act” is the project of a law, project of national and local strategic documents, of the high public interests’ policies, drafted by the public organs.

12. “Electronic register” is the official internet page where the project-acts are published, pursuant to the definitions of Article 7 of this Law.

13. “Recommendation” is every suggestion, proposal or opinion of consultative nature for the drafted project-acts, expressed verbally and/or in a written form from the interested parties.

14. “Public Meeting” is every open meeting with the interested parties for the discussion of project-acts, which are subjects to the notification and public consultation processes, with the aim of clarification and informing to the public opinion related to these public project-acts, and providing relevant comments and recommendations for their improvements.

15. “Transparency” is the open activity of a public organ to be informed, with relation to the acts of high public interests, policy-making and decision-making processes, which ensures to the interested parties the possibility to participate in these processes.

Article 3

Implementation Area

This law shall be implemented for the notification and public consultation rules and procedures that are organized by the public organs in the policy-making and decision-making processes.

Article 4

Limitations

The provisions of this law shall not be applied during the decision-making processes related to:

- a) the national security issues, as long as they constitute a state secret, pursuant to the law on information classified “sate secrete”;
- b) international agreements, bilateral and multilateral agreements;
- c) individual administrative acts and normative administrative acts, expect when with a specific law is foreseen differently;
- ç) normative acts, with the power of law approved by the Council of Ministers;
- d) civil emergency;
- dh) other exemption cases foreseen by the law.

Article 5

Principals in the notification and public consultation process

Notification and public consultation process shall be conducted based on the following principles:

- a) transparency during the notification and public consultation process with inclusive and non-discrimination participation;
- b) effectiveness of the decision-making process in the public organs;
- c) accountability of the public organs from the interested parties.

CHAPTER II

OBLIGATION FOR THE NOTIFICATION AND PUBLIC CONSULTATION

Article 6

Obligation for the notification and public consultation

1. the public organs are obliged to take all necessary measures, in order to create the possibilities for the participation of the public and all interested parties in the notification and public consultation process, including:

- a) publication of the project-act, notification for consultation and data related to the project-act consultation at the electronic register;
- b) publication in the transparency programme, pursuant to the Law no, 119/014 “ On the information right”, of the public organs annual plans related to the decision-making process in the meaning of this law;
- c) providing information related to the notification and public consultation process in all the phases, starting from the project-act publication, acceptance of the comments and recommendations for its improvement, organization of the public debates until the final approval act.

2. The public organ, after the publication in the electronic register of the notification, shall organize direct consultations and public meeting with the interested parties. The direct consultations and public meetings with the interested parties, shall be documented with a written -report (process verbal). Process verbal of the public meetings, organized pursuant to the law, is an official document. Regarding the consultations which are mainly important, how and when it’s possible, upon the decision of the public organ, the public meetings shall be transmitted into the public audiovisual media, in order to be followed by the open public.

3. Despite the definitions under item 1 and 2, of this Article, the public organs shall not be

exempted from the obligation for the publication and consultation of the project-acts, pursuant to the specific laws and their functioning.

Article 7

The electronic register for the notifications and public consultations

1. Every project-act shall be published in the electronic registers for the notification and public consultation. This register is an official internet page, which shall be used as central consultation point, and through this register shall be ensured the access and shall be offered the communication possibility to all the interested parties with the public organ. This form ensures the equality regarding the information access and service, paying attention to the specific needs for specific persons or groups.
2. Creation and the electronic register administration rules for the notifications and public consultations shall be determined by the Council of Ministers, upon the responsible minister proposal.

CHAPTER III

PARTIES INCLUDED INTO THE PUBLIC CONSULTATION

Article 8

Interested parties

1. The interested parties in the notification or public consultation process are:
 - a) Public organs;
 - b) Citizens of the Republic of Albania and groups of interest;
 - c) Foreign natural persons with Permanent residence in the Republic of Albania, as well foreign legal persons, registered in the Republic of Albania.
2. Other foreign persons may participate in the consultation process in accordance with international agreements or upon direct request of public organs, whenever they consider it necessary.

Article 9

The rights of the interested parties

The interested parties in the notification and public consultation process have the rights:

- a) To request information for the notification and public consultation process, including access in the project-act, pursuant to the definition under the letter “a”, item 1, Article 6, of this Law, with the exception of the cases foreseen under the Article 4, of this Law;
- b) To propose to the public organs the initiation of the procedure for the drafting and approval of the project-acts, pursuant to the annual plan of the decision making process, published by the public organ, in accordance with the definitions of letter “b”, item 1, Article 6, of this Law.

c) To submit to the public organs the comments and recommendations for the project-acts that are under the notification and public consultations process.

Article 10

Coordination of the notification and public consultation

Every public organ appoints a person as a coordinator of the notification and public consultation, who is responsible for the overall coordination and administration of the work to guarantee the right of public notice and consultation provided for by this law.

CHAPTER IV

RULES OF THE NOTIFICATION AND PUBLIC CONSULTATION PROCESS

Article 11

Notification ways and acceptance of comments and recommendations

1. Notification of draft acts that will be subject to the public consultation procedure is done through the electronic register. In cases where the public body deems it necessary, notification may also be made in one or more of the following forms:

- a) electronic post;
- b) Public notification, which shall be posted in the initiation public organ premises;
- c) with a notification in the national, regional or local audio-visual media,
- ç) With the publication in local newspapers or in the two most widely read newspapers nationwide.

2. Obtaining comments and recommendations in the public consultation process is carried out in one of the abovementioned forms, as well as in certain cases verbally and / or in writing and recorded in the process verbals of the public meetings.

Article 12

Preliminary notification

1. The public organ may in particular cases collect prior information and / or opinions from interest groups before initiating the process of drafting the relevant act.

2. During the initiation phases, the public body, when it deems necessary, publishes in one of the foreseen forms in Article 11, a preliminary notification for the act that shall be drafted to provide information from the interested parties.

3. Any interested party may respond to the prior notification within the time limits provided for in this Law by submitting comments and recommendations.

Article 13

The content of the notification related to the decision-making imitative

1. In the notification for the start of the public consultation process should be determined at least:

- a) The necessary reasons for the project-act issuing, and the impact it will have;

b) Deadline, location and the way how the interested parties submit or send their recommendations;

c) Contact address of the coordinator for the notification and public consultation of the public organ on the collection of the recommendations and comments of the project-act;

ç) Place and date of organizing the public meeting in cases when the public body decides on its organization.

2. Access to the necessary documentation relating to the draft act is also provided in accordance with the manner laid down in the law in force on the right to information.

Article 14

Information that is required to be provided

1. Interested parties to be consulted shall be provided with the information necessary to enable them to contribute as effectively as possible to the process of preparing the draft act electronically and / or through postal service.

2. In addition to the relevant documents, depending on the complexity, volume and other features of the project act, provide explanations for the purpose, problems to be addressed, general ideas, major changes and / or possible alternatives and, where possible studies or analyzes that have been carried out for drafting the draft act.

Article 15

The deadline for the submission of comments and recommendations

1. Interested parties are given the reasonable time to send comments and recommendations to the decision-making body:

a) Within 20 working days from the date of notification of the preliminary notification process;

b) Within 20 working days from the notification date on the notification and public consultation process.

2. For particularly complex or important acts, according to the decision of the public body, the deadline for submitting comments may be extended to 40 working days from the date of notification.

3. The abovementioned definitions do not neglect the time limits laid down in specific laws on public consultation and information procedures.

Article 16

Extension and repletion of the consultation phase

The public body may extend the deadline for submitting comments or may repeat the stage of receiving comments and recommendations in cases when:

a) the public organ is not satisfied with the quality of submitted comments;

b) In the comments and recommendations given were raised important new issues that were

not part of the initial consultation.

Article 17

Notification for public meetings

1. During the consultation period, given the importance of the draft act and the high public interest, the public body may hold public meetings where the interested parties present their opinions and data on the draft act to be drafted.

2. Interested parties, invited to attend public meetings, shall be given the necessary time for preparation. In any case, they are informed not less than 20 working days before the public meeting, making available copies of the draft act to be discussed.

Article 18

Participation in the public meeting

1. The consultation in public meeting is open to public.

2. Notification for the organization of the public meetings shall be done pursuant to the notification methods, foreseen under the Article 11 of this law.

3. The representative of the public body that directs the meeting, in accordance with the rules of the public body, offers the participants the opportunity to express their opinion on the issues being discussed.

4. In each public meeting shall be held a process verbal, which is stored at the public organ.

5. If shall be deemed necessary, the public meeting may be recorded.

6. Public meeting process verbals and registrations shall be made public upon the submitted request, pursuant to the legislation in force on the right of information on official documents.

Article 19

Review of the comments and recommendations

1. The comments and recommendations received during the public consultation process, shall be collected by the coordinator of the notification and public consultation from the relevant public organ, in a structural and transparent way.

2. Review if the comments and recommendations shall be conducted by the relevant public organ on the drafting of the project-act, which decide on the approval or the refusal of the collected recommendations from the consulted interested parties.

3. Project-act is accompanied with a summary of the accepted recommendations, pursuant to the provisions of this law. If the recommendations of the interested parties are not accepted, then the public organ shall submit a summary of the non-acceptance reasons from their side in one of the notification forms, foreseen under the Article 11 of this law.

Article 20

Reports on the decision-making process transparency

1. Public organs are obliged to draft and publish the annual reports on the decision-making process transparency, where is involved the following information:

- a) Number of acts approved by the relevant public organ during the corresponding year;
- b) The general number of received recommendations from the interested parties;
- c) Number of the accepted and refused recommendations and comments during the decision-making process;
- ç) number of the organized public meetings.

2. Annual report on the decision-making process transparency shall be published pursuant to the definitions of the Article 11 of this Law.

CHAPTER V COMPETENCES AND PROCEDURES ON THE COMPLAINTS REVIEW

Article 21

Procedures on the complaint review

1. If the interested parties assess that the public organ has violated their rights on the notification and public consultation, pursuant to the definitions of item 1, article 6, of this law, as well when there have not been respected the foreseen deadlines under article 15 and 17 of the law, shall complain to:

- a) The head of the responsible public organ on the notification and public consultation process, when the project-act has not been approved yet;
- b) At the Information and Personal Data Protection Commissioner, within 30 days from the approval date of the act;

2. Upon receipt of the complaint, the responsible public body shall take immediate measures to correct and reflect the objections raised in the complaint of the interested party. In any case, the public authority notifies the interested party on the measures taken and invites them to provide the comments and recommendations for the draft act.

3. The Information and Personal Data Protection Commissioner, upon receipt of a complaint, shall require to the complaint and public organ, towards the complaint has been addressed, to submit their comments in a written form within 10 days. When it is considered as appropriate, the Commissioner organizes a public hearing session with the participation of the interested parties.

4. In the end of the reviewing process, the Commissioner, when he reaches into the conclusion that there are violations of this law, shall propose to the responsible public organ the execution of administrative measures, toward the responsible person/persons, pursuant to the legislation on civil service in force.

CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

Article 22

Final provisions

The Council of Ministers is responsible for the issuance of necessary subordinate legal acts pursuant to point 2 of article 7 of this law, within 3 months of its entry into force.

Article 23

Entering into force

Approved on 30.10.2014

Promulgated with decree no. 8793, date 18.11.2014, of the President of the Republic of Albania, Bujar Nishani